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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,013	06/23/2004	Erella Pines	0706US-Saliwizer	2726
23521	7590	11/15/2007	EXAMINER	
SALTAMAR INNOVATIONS			BERTRAM, ERIC D	
30 FERN LANE			ART UNIT	PAPER NUMBER
SOUTH PORTLAND, ME 04106			3766	
			MAIL DATE	DELIVERY MODE
			11/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary

Application No.

10/500,013

Applicant(s)

PINES ET AL.

Examiner

Eric D. Bertram

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-21, 25, 26, 43-46, 48, 49 and 57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25, 26, 48, 49 and 57 is/are allowed.
- 6) ☒ Claim(s) 18-21 and 43-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 18-21 and 43-46 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

2. The indicated allowability of claims 18-21 and 43-46 is withdrawn in view of the newly discovered reference(s) to Wolff et al. (WO 00/44439) and Meer (US 5,190,053). Rejections based on the newly cited reference(s) follow.

3. Claims 25, 26, 48, 49 and 57 are allowed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 18-21 and 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff et al. (WO 00/44439, hereinafter Wolff) in view of Meer (US 5,190,053). Wolff discloses a system for electrically detecting a lack of saliva in an oral cavity of a patient, as well as electrically stimulating the oral cavity to induce production of saliva. The system includes a hermetically sealed housing fixable within the oral cavity (page 14, lines 26-37), in which is the control device of the system. The control device includes an electrical utility having a power source 24 and a signal generator 22 for producing electrical pulses, as well as a potentiometer for controlling a parameter of the signal generated by the signal generator (page 15, lines 16-page 16, line 12). The electrical parameters of the electrical utility may be modified by a remote computer device that exchanges information with the electrical utility (page 16, lines 7-8). The system may also include a salivation sensor which senses mouth humidity and then changes the electrical parameters of the electrical utility by forming a feedback loop with the electrical utility (Page 18, lines 22-25). Therefore, the electrical utility can also be considered a check device, since it obtains the measure of salivation, modifies a parameter of the pulse generator, and communicates with a remote computer device.

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The electrical pulses are delivered through a pair of electrodes 26, which contact the tissue of the oral cavity (page 15, lines 20-31). Finally, the system is attached to the oral cavity through an anchoring element 32, which Wolff admits is not limited to any examples included in the disclosure (page 16, lines 13-22).

8. However, Wolff does not disclose an attachment structure which utilizes an elastic jaw which fixes to a tooth through pressure applied against the tooth. Attention is directed to the secondary reference of Meer, which discloses an attachment structure for anchoring a stimulating device to the oral cavity of a patient (see abstract). As shown in figure 3, the attachment element is a jaw 16 with face 22 which fixes onto at least one tooth by the pressure applied by the jaw to the tooth. Since the jaw is formed from plastic that conforms to the shape of the teeth, there is inherently some elasticity to the material, and furthermore, the face 22 will contain any grooves that the teeth may have themselves (Col. 4, lines 28-56). This attachment structure allows electrodes 12 and 14 to be held in a proper position.

9. One of ordinary skill in the art would be well aware of any and all attachment elements for attaching electrodes to the oral cavity of a patient. Furthermore, since Wolff states that the attachment element is not limited to the examples found in the disclosure, one of ordinary skill in the art would be open to utilizing any attachment element known in the art, including that of Meer. Because both Wolff and Meer teach attachment structure for electrodes in the oral cavity of a patient, it would have been obvious to one of ordinary skill in the art to substitute one attachment structure for the

other in order to achieve the predictable result of maintaining proper placement of electrodes in the oral cavity of a patient.

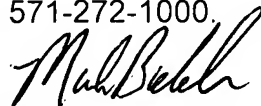
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D. Bertram whose telephone number is 571-272-3446. The examiner can normally be reached on Monday-Thursday from 8:30-7 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on 571-272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric D. Bertram
Examiner
Art Unit 3766


Mark Bockelman
Primary Examiner
Art Unit 3766

EDB